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Attorneys for Federal Defendants

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

HOWARD THOMAS AND SHIRLEY  
THOMAS,

Plaintiffs,

v.

UNITED STATES OF AMERICA, et al,

Defendants.

Case No. C 10-00001 JF

**E-FILING CASE**

STIPULATION AND ~~PROPOSED~~  
ORDER TO TRANSFER CASE TO  
SOUTHERN DISTRICT OF CALIFORNIA

Whereas, this action arises under the Federal Tort Claims Act ("FTCA"), 28 U.S.C. Sections 2671, et seq.

Whereas, actions under the FTCA may be prosecuted either where the plaintiff resides or where the act or omission occurred. 28 U.S.C. Section 1402(b); see *Del Raso v. United States*, 244 F.3d 567, 570 fn.1 (7<sup>th</sup> Cir. 2001).

Whereas, plaintiffs reside in the Southern District of California.

Whereas, the acts and omissions alleged in the Complaint occurred at the United States Penitentiary in Atwater, California, which is located in the Eastern District of California.

Whereas, venue lies in either the Southern District of California or the Eastern District of California and not in the Northern District of California, where this case is currently pending.

STIPULATION AND PROPOSED ORDER TO TRANSFER  
Case No. C 10-00001 JF

1       Whereas, defendant USA appears specially for the sole and limited purpose of objecting to  
2 venue and entering into this stipulation.

3       Therefore, the parties stipulate, through counsel, that this action be transferred to the United  
4 States District Court for the Southern District of California.

5  
6 Respectfully submitted,

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8  
9       DATED: March 8, 2010

JOSEPH P. RUSSONIELLO  
United States Attorney

10  
11       By: \_\_\_\_\_ /S/ \_\_\_\_\_

12       JAMES A. SCHARF  
Assistant United States Attorney

13  
14       DATED: March 8, 2010

MILLER & JAMES, LLP


15       By: \_\_\_\_\_ /S/ \_\_\_\_\_

16       Patricia I. James, Attorneys for Plaintiffs

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18       Pursuant to the stipulation of the parties, and good cause appearing, it is hereby ordered  
19 that this action be transferred to the United States District Court for the Southern District of  
California.

20       IT IS SO ORDERED.

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23       DATED: March <sup>10</sup>\_\_\_\_, 2010

24         
Hon. Jeremy Fogel D. Fogel  
United States District Court Judge  
Northern District of California